

**MINUTES
of the
SECOND MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT OVERSIGHT COMMITTEE**

**July 8, 2003
Mortgage Finance Authority Office
344 Fourth Street SW
Albuquerque, New Mexico**

The second meeting of the Mortgage Finance Authority Act Oversight Committee was called to order by Representative Raymond M. Ruiz, designated chair, on July 8, 2003 at 9:00 a.m.

PRESENT

Sen. Nancy Rodriguez, Chair
Rep. Fred Luna, Vice Chair
Sen. Manny M. Aragon
Sen. Mark Boitano
Sen. Leonard Lee Rawson
Rep. Raymond M. Ruiz

ABSENT

Rep. Richard Cheney
Rep. Jane E. Powdrell-Culbert

Advisory Members

Rep. Thomas A. Anderson
Sen. Richard M. Romero
Rep. Daniel P. Silva
Sen. H. Diane Snyder

Rep. Miguel P. Garcia
Sen. Ramsay L. Gorham
Sen. Phil A. Griego
Rep. Antonio Lujan

Staff

Rachel Ray

MFA Staff

Lionel Holguin
Sandra Marez
Erin Quinn
Jim Stretz

Representative Ruiz was designated by the committee to act as chair until the arrival of Senator Rodriguez at approximately 9:30 a.m., at which time she took over as chair of the committee.

David Harris, co-chair of the Governor's Finance Council, gave a presentation on how the council was created. He acknowledged that the Mortgage Finance Authority (MFA) was not a

state agency as described by the executive order. He noted that acquiring the support of the MFA board was the primary motive for including the MFA in the executive order. In response to the committee's questions, Mr. Harris said he has seen no attempt by the council to micromanage MFA's activities. He said the council is not involved in MFA's week-to-week business. Jim Stretz, MFA, also noted that any issue that is brought up before the MFA board is also brought up before the oversight committee.

In regard to the council's involvement in the capital outlay process, Mr. Harris noted that there needs to be a vetting of projects, of which local governments are unaware. When asked how long the council would be in place, Mr. Harris responded that there would be a review process for the council. Mr. Harris stated that the council is an executive planning committee and not a policymaking body. He stated that he would have preferred open meetings but the governor's attorney had disagreed. The committee expressed concern over council activities violating the separation of powers doctrine, whether the executive order establishing the council would become statutory and whether some federal funding sources would be jeopardized if the council does not comply with the Open Meetings Act. Mr. Harris stated that issues regarding the council's operations would be presented to the legislature if there is a decision to try to create the council in statute.

The committee queried why representatives from both houses of the legislature are not on the council, as well as a representative from the supreme court, and asked Mr. Harris to report back on how the decision was made to exclude these representatives. The committee also asked about the process for investing state money. The committee asked what would happen if MFA decides not to go along with the executive order setting up the council, and whether the order itself could be modified by removing certain words, particularly in regard to the council's review and approval process. Mr. Harris stated that the executive order had been worked on for several months and that modification is probably not possible.

The committee then discussed whether to take a vote on requesting an attorney general's opinion on the legality of the executive order. The committee's main concern was that if the executive order is found to be illegal at a later date, then the council would have bound MFA to illegal agreements. The committee declined to take a vote on requesting an attorney general's opinion. However, the committee did vote to ask Mr. Harris to advise the governor on the committee's concerns and possible changes to the executive order and to work with someone in the attorney general's office to revise the order. Mr. Harris said he would report to the committee after consulting with someone in the attorney general's office.

Marty Daly attended the meeting in her capacity as the attorney general's representative on the MFA board but did not speak during the meeting. Bruce Wiggins, the attorney for MFA, also attended but did not speak.

The committee approved the minutes of the June meeting and the work plan and budget, which had been approved without change by the Legislative Council. The committee also agreed

to hold the November meeting on the third Tuesday of November because the second Tuesday is a holiday.

There being no further business to be considered at this meeting, the committee adjourned at 11:00 a.m. after motion duly made, seconded and unanimously adopted.